

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10 BRANSON S. WARD,

11
12 Plaintiff,

13 v.

14 SGT. RICH, et. al.,

15 Defendants.
16

Case No. EDCV 08-1021-AHM(OP)

ORDER ADOPTING FINDINGS,
CONCLUSIONS, AND
RECOMMENDATIONS OF
UNITED STATES MAGISTRATE
JUDGE

17 Pursuant to 28 U.S.C. § 636, the Court has reviewed the Second Amended
18 Complaint, all the records and files herein, and the Report and Recommendation of
19 the United States Magistrate Judge. The Court concurs with and adopts the
20 findings, conclusions, and recommendations of the Magistrate Judge,

21 ///

22 ///

23 ///

24

25

26

27

28

1 IT IS HEREBY ORDERED that:

- 2 (1) Defendants' Motion to Dismiss for failure to exhaust
3 administrative remedies is denied, as Defendants have failed to
4 satisfy their burden of proving this affirmative defense;
- 5 (2) Defendants' Motion to Dismiss as untimely Plaintiff's Eighth
6 Amendment cruel and unusual punishment claims as to
7 Defendants Goodrich, Holmes, Harris, and Vernal is denied, as
8 these claims were timely raised;
- 9 (3) Defendants' Motion to Dismiss as untimely Plaintiff's
10 First and Fourteenth Amendment claims is denied without
11 prejudice; and
- 12 (4) Within thirty (30) days from the date of the entry of the
13 order approving and adopting this Report and
14 Recommendation, Defendants Goodrich, Holmes, Harris,
15 and Vernal, shall file an Answer to Plaintiff's First,
16 Eighth, and Fourteenth Amendment claims.

17
18 DATED: May 19, 2011


HONORABLE A. HOWARD MATZ
United States District Judge

19
20
21 Prepared by:

22 
23
24 HONORABLE OSWALD PARADA
25 United States Magistrate Judge
26
27
28